Filed 6/9/09 In re J.A. CA2/5

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re J.A., a Person Coming Under the Juvenile Court Law.	B206450 (Los Angeles County Super. Ct. No. NJ16758)
THE PEOPLE, Plaintiff and Respondent, v. J.A., Defendant and Appellant.	

APPEAL from orders of the Superior Court of the County of Los Angeles, Robin R. Kessler, Referee and John C. Lawson, Commissioner. Dismissed.

Torres & Torres, Tonja R. Torres, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Pamela C. Hamanaka, Senior Assistant Attorney General, Paul M. Roadarmel, Jr., Supervising Deputy Attorney General, Roy C. Preminger, Deputy Attorney General, for Plaintiff and Respondent.

INTRODUCTION

The juvenile court sustained a Welfare and Institutions Code section 602 (section 602) petition filed against respondent and appellant J.A. (respondent) for second degree robbery and ordered him placed in a camp community placement program. Respondent appealed certain terms of his probation, the amount of his predisposition custody credits, and the length of his maximum term of confinement.

Subsequent to the filing of the notice of appeal, respondent turned eighteen years of age and on April 1, 2009, the juvenile court terminated jurisdiction over respondent but, upon further review, determined that jurisdiction could not be terminated while this appeal was pending and, therefore, that jurisdiction would be terminated upon the filing of the remittitur.

We requested letter briefs from the parties on the issue of whether the appeal was moot. Upon review of those briefs, we have concluded that for the reasons set forth below, the appeal is moot. We therefore dismiss the appeal.

PROCEDURAL BACKGROUND

In a section 602 petition filed in the juvenile court, the Los Angeles County District Attorney charged respondent with one count of second degree robbery in violation of Penal Code section 211[1]—a felony. In a subsequent section 602 petition, the District Attorney charged respondent with one count of vandalism in violation of section 594, subdivision (a)—a misdemeanor.

At an adjudication hearing, the juvenile court found true the allegation that respondent had committed second degree robbery and sustained that petition, but dismissed the petition alleging that respondent had committed vandalism. At the disposition hearing, the juvenile court ordered that respondent would remain a ward of

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[1] All further statutory references are to the Penal Code, unless otherwise indicated.

the juvenile court[2] and that appellant be placed in a long-term camp community placement program. The juvenile court also revoked the prior order placing respondent at home on probation and awarded respondent 58 days of predisposition custody credit. Respondent filed a timely notice of appeal from the order sustaining the section 602 petition and finding respondent a ward of the juvenile court.

Respondent turned 18 years old shortly after his notice of appeal was filed. On February 27, 2009, in connection with the filing of the Attorney General's respondent's brief, we granted the Attorney General's request to augment the record on appeal with a copy of the juvenile court's December 3, 2008, minute order showing that the order placing respondent in a camp community placement program had been terminated and that respondent had been ordered home on probation.

On April 1, 2009, the juvenile court terminated jurisdiction over respondent but, on further review, determined that jurisdiction could not be terminated while this appeal is pending and therefore that jurisdiction would be terminated upon the filing of the remittitur.[3] Based on the juvenile court's order stating that jurisdiction over respondent will be terminated upon remittitur, we requested letter briefs from the parties on the issue of whether dismissal of the appeal is warranted because the issues on appeal have been rendered moot by the imminent termination of jurisdiction over respondent.

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[2] On September 26, 2002, respondent admitted the allegation of a section 602 petition charging respondent with arson in violation of section 451, subdivision (d)—a felony. The juvenile court declared appellant a ward of the court, ordered appellant home on probation, imposed terms and conditions of probation, and ordered a maximum term of confinement of three years. On March 26, 2003, respondent admitted the allegations of a section 602 petition charging respondent with criminal threats in violation of section 422. The juvenile court ordered respondent to remain a ward of the court, ordered respondent to remain home on probation concurrent to the prior order subject to certain terms and conditions, imposed 60 days under a community detention program, and declared a maximum term of confinement of three years, four months.

[3] On our own motion, we have taken judicial notice of a copy of the juvenile court's April 1, 2009, minute order.

FACTUAL BACKGROUND

On appeal, respondent challenges only the terms and conditions of his probation, the award of custody credit, and the length of his maximum term of confinement. Therefore, a detailed statement of the facts which supported the juvenile court's true finding on the second degree robbery charge is unnecessary. The testimony and evidence introduced by the District Attorney at the adjudication hearing established that respondent robbed a female victim of her purse at gunpoint in the parking lot of a fast food restaurant. The victim identified respondent as the person who robbed her. Defendant denied committing the robbery and that he had access to a gun. Respondent's mother testified that he was at home at the time the robbery was committed.

DISCUSSION

A. Contentions

1. Probation Conditions

Respondent challenges the following probation conditions as unconstitutionally vague and overbroad under *In re Sheena K.* (2007) 40 Cal.4th 875, 890 because they lack a knowledge requirement:

1. The February 1, 2008, condition ordering respondent not to associate with persons disapproved by camp staff;

2. The March 26, 2003, condition ordering respondent not to associate with anyone disapproved by his parents or probation officer;

3. The March 26, 2003, condition ordering respondent not "to remain in the presence of any unlawfully armed persons"; and

4. The March 26, 2003, condition ordering respondent "to stay away from places where narcotics users congregate." According to respondent, each of the foregoing conditions suffers from the same constitutional infirmity—they all fail to require knowledge on respondent's part.

2. Predisposition Custody Credits

Respondent next argues that the juvenile court did not properly calculate his custody credits. According to respondent, although the juvenile court aggregated the maximum term of confinement on his current petition with the terms on two prior sustained petitions, it failed to aggregate his predisposition custody credits on the current petition with custody credits related to the two prior petitions.

3. Maximum Term of Confinement

Finally, respondent contends that the maximum term of confinement on the current petition as calculated by the juvenile court—six years, four months—is too long. According to respondent, when the term on the current petition is properly aggregated with the terms on the prior two petitions, the maximum term of confinement is six years.

B. Mootness

Once respondent's camp placement terminated in December 2008 and he was placed at home on probation, each of his contentions on appeal was operative, if at all, based on the potential adverse effect the asserted errors would have on his probation and any future violation of the terms and conditions imposed on that probation. Because it is now undisputed that probation will terminate upon remittitur, the asserted errors, will have no potential adverse effect on respondent. As a result, respondent is no longer aggrieved by the asserted errors and we cannot grant him effective relief—i.e., the claimed errors are moot. (*Californians for an Open Primary v. McPherson* (2006) 38 Cal.4th 735, 783 [""[W]hen, pending an appeal from the judgment of a lower court, and without any fault of the defendant, an event occurs which renders it impossible for [the appellate] court, if it should decide the case in favor of plaintiff, to grant him any effectual relief whatever,"' the appeal is moot. (*Consol. etc. Corp. v. United A. etc. Workers* (1946) 27 Cal.2d 859, 863 [167 P.2d 725]; accord, e.g., *Simi Corp. v. Garamendi* (2003) 109 Cal.App.4th 1496, 1503 [1 Cal.Rptr.3d 207] ['A case becomes

moot when a court ruling can have no practical impact or cannot provide the parties with effective relief'].)"].) The appeal should therefore be dismissed.[4]

DISPOSITION

The appeal is dismissed as moot.

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MOSK, J.

We concur:

TURNER, P. J.

KRIEGLER, J.

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[4] As discussed above, we requested letter briefs from the parties addressing whether the appeal was moot. In their letter briefs, both parties agreed that the appeal is moot and should be dismissed.